

REMARKS

By the forgoing amendment, applicant has amended independent claim 1 to specify that applying a decorative surface sheet impregnated with a resin on top of the surface structure of the core with support being found in the original disclosure for example, at page 4, lines 11-12 of the Specification, as well as the manufacture of decorative surface elements where a different type of surface structure is achieved as supported by the Specification, page 2, lines 1-3 and page 5, lines 10-17.

In addition, the claim dependency of original claim 14, has been amended to depend on original claim 13. Accordingly, none of the forgoing amendments raise the issue of new matter.

Reconsideration and withdrawal of the rejection of claim 14, under 35 U.S.C. 112 second paragraph is respectfully requested.

The limitation “the press foil” in line 2 of claim 14, finds sufficient antecedent basis when this claim is made dependent on claim 13, which was originally intended. Withdrawal of the rejection is therefore respectfully requested.

Reconsideration of the rejection of claims 1, 7, 8, 15 and 16 under 35 U.S.C. 102 (b) as being anticipated by Drees et al. (U.S. Publication 2002/0146954 A1) is respectfully requested.

Firstly, applicants direct the Examiner’s attention to the instructions promulgated by the Director in MPEP Section 2131 regarding what constitutes “anticipation” under the Patent statutes.

In order to constitute “anticipation” there must be “identity” of the teachings of the applied reference with that of the claimed invention. The possibilities or probabilities do not arise to the equivalent of “inherency” and thus it is clear that Drees et al did not anticipate the previous version of the claims.

However, in order to more particularly point out distinctly claimed the subject matter that applicants regard as the invention, applicant has further amended independent claim 1 to make it clear that the decorative surface is applied as a “sheet impregnated with a resin” and that this sheet, upon pressing the core material, the decorative layer and the wear layer under increase pressure and temperature in a laminate press imparts the surface structure of the core to at least the decorative surface sheet which is not found in the Drees et al teachings.

In Drees et al, a high pressure decorative laminate is already formed with the various surface and filler sheets where laminae are cured under heat and pressure as described in paragraph [0022] which is bonded into a consolidated, laminate mass.

After such pressing operation has completed, the resultant laminate sheets are trimmed to size, the backside sanded so as to improve adhesion during subsequent bonding to a substrate; [0015].

The subsequent paragraphs of Drees et al. e.g. [0031] et seq, teach the use of substrates of polyethylene terephthalate glycol (“PETG”) and not the particle board or MDF previously used prior to the Drees et al invention. Thus, there is no way the Drees et al could possible be anticipatory of the claimed invention which bonds not only a protective wear layer and decorative surface sheet and core material in one pressing operation, but also imparts the surface structure of the core to at least the decorative sheet. As such is not found in Drees et al it cannot be anticipatory of the claimed invention. Withdrawal of the rejection is therefore respectfully requested.

Reconsideration and withdrawal of the rejection of claims 1-6 and 11-16 under 35 U.S.C. 103 (a) as being unpatentable over Chen et al (U.S. Publication 2004/0086678 A1-hereinafter Chen et al. ‘678) is respectfully requested. Chen et al. ‘678 does not at all teach the claimed invention. Chen et al provides a printed pattern; e.g. by inkjet printing, on a core and does not use a decorative sheet as in the claimed invention-See paragraph [0028]. Therefore even if Chen et al was to press a core material, an inkjet printed layer and a wear

layer under increased pressure and temperature, it would not achieve the claimed invention. Accordingly, Chen et al '678 cannot possibly form a prima facie case of obviousness for independent claim 1.

In addition, the dependent claims set out additional steps which are unobvious over the Chen et al '678 teachings. For example, dependent claim 2, requires that the surface structure of the core material is achieved by machining a desired surface into the upper surface of the core material. Chen et al. nowhere teaches machining a core material as in dependent claim 2, does not teach "partially wetting the upper surface of the core material with a solvent" as in dependent claim 4, does not teach the limitations of claim 5, does not teach the use of a press cushion as in claim 11, does not use a press plate having a surface structure matching the surface structure of the core material as in claim 12, does not provide a press foil with microstructure as in claims 13-14, and thus, is so deficient as to negate its use as even a teaching reference for the claimed invention. Withdrawal of the rejection is respectfully requested.

Reconsideration and withdrawal of the previous rejection of claims 7-10 under 35 U.S.C. 103 (a) as being unpatentable over Chen et al. '678 and further in view of Chen et al (U.S. Patent 6,617,009-hereinafter Chen et al. '009) is respectfully requested. The deficiencies of Chen et al. '678 as applied to independent claim 1 (upon which claims 7-10 are dependent and thereby incorporate all its limitations-35 U.S.C. 112, fourth paragraph) are incorporated herein by reference as though expressly restated herein. Chen et al. '678 is further conceded by the Examiner as not disclosing that the decorative layer or the wear layer being paper i.e. cellulose impregnated with resin. While Chen et al. '009 allegedly disclose a flooring material with a core, a decorative layer and a wear layer, the combination of Chen et al. '678 with Chen et al '009 still does not teach the limitations of claims 1, as amended, i.e., that the surface structure of the core would be imparted to at least the decorative sheet during pressing as instantly claimed. Withdrawal of the rejection is therefore respectfully requested.

Reconsideration and withdrawal of the previous rejection of claims 1, 7-10, 15 and 16 under 35 U.S.C. 103(a) as being unpatentable over Drees et al in view of Chen '678 is respectfully requested.

It is conceded by the Examiner that Drees et al. does not disclose embossing a pattern into the particle board core at page 5 of the Office Action, penultimate line. While Chen et al. '678 discloses that it is known to use a core within an embossed surface, Chen et al '678 provides a decorative surface on such a core solely by printing, e.g., inkjet printing, and does not use a decorative sheet impregnated with a resin as in the claimed invention. Thus, the proposed combination of Drees et al and Chen et al '678 would not establish a prima facie case of obviousness for the claimed invention. Withdrawal of the rejection is therefore respectfully requested.

The rejection of claim 2, under 35 U.S.C. 103 (a) as being unpatentable over Drees et al. and Chen et al. '678 or Chen et al '678 as applied to claim 1 above and further in view of O'Brien et al (U.S. Patent 6,551,678) is respectfully traverse. Assuming arguendo, that O'Brien teaches what is alleged in the Office Action that "it is known to machine a pattern in to a substrate" it does not make obvious the invention of claim 2 because claim 2 incorporates by reference all the limitations of the claim from which it depends, i.e., claim 1, and the deficiencies of Drees et al and Chen et al. '678 or Chen et al. '678 as applied to claim 1 above are noted and incorporated herein by reference as though fully set forth herein. Therefore, the combination of these references with O'Brien et al does not make obvious the claimed invention.

Similarly, the rejection of claims 3-6 under 35 U.S.C. 103 (a) as being unpatentable over Drees et al and Chen et al. '678 or Chen et al '678 applied to claim 1 above and further in view of Duvall (U.S. Patent 2,803,188) is respectfully requested.

As with the deficiencies in the rejection of claim 2 above, claims 3-6, though directed to other matters of creating a surface structure in the core do not correct the deficiency of

Drees et al in view of Chen et al. '678 or Chen et al '678 as applied to claim 1 above upon which claims 3-6 are dependent and thereby incorporate all this limitations by statute (35 U.S.C. 112 fourth paragraph). Withdrawal of the rejection is therefore respectfully requested.

Withdrawal of the rejection of claims 11-14 under 35 U.S.C. 103 (a) as being unpatentable over Drees et al or Drees et al and Chen et al. '678 as applied to claim 1 and further in view of Cannady Jr. et al. (U.S. Patent 3,948,713) is respectfully requested. The Examiner admits that the references cited above do not disclose the specifics of the bonding of the layers together in the press. Cannady Jr. et al., cited only as disclosing a method of making multiple decorative laminates where a pattern is applied to the surface of the wear layer using a metal foil which is cushioned from the surface of the press by a support layer (11) does not correct the forgoing deficiencies noted above with regard to independent claim 1 upon which all of claims 11-14 are directly or indirectly dependent. Thus, the proposed combination of references still does not make obvious the claimed invention, therefore withdrawal of all rejections and passage of the application to issue are respectfully requested.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 14-1437, under Order No. 8688.047.US0000.

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Respectfully submitted,



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